

Message Text

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ACTION DLOS-06

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TO SECSTATE WASHDC PRIORITY 9262

UNCLAS SECTION 1 OF 2 USUN 3810

FOR S/P S/PRS D/LOS

DEPT PLS PASS SECRETARY'S PARTY

FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJ: QUESTIONS AND ANSWERS FOR USE WITH PRESS ON LAW OF
THE SEA CONFERENCE

FOLLOWING ARE Q'S AND A'S FOR USE WITH PRESS ON RESULTS
OF THE LAW OF THE SEA CONFERENCE SESSION IN NEW YORK

I. GENERAL

1. A. IS THE CONFERENCE A FAILURE? DO YOU SEE ANY
REAL PROSPECT FOR SUCCESS IN THE NEAR FUTURE?

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A. WE WENT INTO THIS SESSION WITH HOPES OF MAINTAINING THE MOMENTUM GENERATED AT THE SPRING SESSION. IT IS TRUE THAT WE DID NOT ACHIEVE THE FURTHER SUBSTANTIVE COMPROMISES THAT WE HAD HOPED FOR IN COMMITTEES II AND III LARGELY BECAUSE OF THE IMPASSE IN COMMITTEE I.

WE ARE DISAPPOINTED WITH THE PROGRESS OF THIS SESSION BUT WE ARE NOT DISCOURAGED. AT THE GENERAL COMMITTEE ON THURSDAY THERE WAS BROAD SUPPORT FOR CONCLUDING NEGOTIATIONS AT THE NEXT SESSION.

2. Q. SECRETARY KISSINGER IN HIS STATEMENT OF APRIL 8 SAID THAT THIS SESSION SHOULD BE THE FINAL SESSION OF THE CONFERENCE AND THAT IF NEGOTIATIONS WERE NOT COMPLETED THIS YEAR, THE WORLD WOULD HAVE LOST ITS BEST CHANCE TO ACHIEVE A TREATY IN THIS GENERATION. IN VIEW OF THE FACT THAT NO PROGRESS WAS MADE AT THIS SESSION, DOESN'T THIS MEAN THAT THE LOS NEGOTIATIONS ARE OVER?

A. OUR CONCERN HAS ALWAYS BEEN THAT IF A SOLUTION TO THESE ISSUES IS DELAYED FOR TOO LONG, NATIONS WILL TAKE UNILATERAL ACTION REGARDING OCEAN RIGHTS AND THE POSSIBILITIES OF A SUCCESSFUL TREATY WILL BE REDUCED. WE ARE, HOWEVER, GOING TO CONTINUE TO SEEK A COMPLETION OF A FINAL ACCEPTABLE LOS TREATY AT THE NEXT SESSION TO BE HELD IN MAY 1977.

3. Q. HOW LONG DO YOU THINK THESE NEGOTIATIONS WILL TAKE?

A. IT IS VERY DIFFICULT TO PREDICT A TIME SCHEDULE. POLITICAL DECISIONS WILL BE THE KEY. IF MOST COUNTRIES SERIOUSLY CONSIDER SECRETARY KISSINGER'S PROPOSALS AND COME TO THE NEXT SESSION PREPARED TO MAKE THE PRAGMATIC AGREEMENTS WE KNOW ARE NECESSARY THEN WE CAN EXPECT SUBSTANTIAL PROGRESS.

4. ADMINISTRATION SPOKESMEN HAVE TESTIFIED THAT WITH SOME EXCEPTIONS COMMITTEE II AND III TEXTS WERE SUBSTANTIALLY AGREED AND COULD BE COMPLETED
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AT THIS SESSION. WHAT HAPPENED?

A. COMMITTEES II AND III DID CONCENTRATE THEIR EFFORTS ON WHAT WERE GENERALLY PERCEIVED AS THE KEY REMAINING ISSUES. SECRETARY KISSINGER DISCUSSED TWO OF THEM, THE QUESTION OF THE STATUS OF THE ECONOMIC ZONE, AND SCIENTIFIC RESEARCH, WHILE HE WAS IN NEW YORK. ON COMMITTEE II ISSUES WE THINK THE NEGOTIATIONS

THIS SESSION HAVE POINT TO THE DIRECTION OF ACCOMMODATION. THERE WERE USEFUL AND WELL RECEIVED PROPOSALS MADE ON THE STATUS OF THE ZONE. ON COMMITTEE III THERE WAS NO FORMAL MOVEMENT ON MARINE. SCIENTIFIC RESEARCH AND THAT ISSUE IN OUR VIEW REMAINS UNRESOLVED, BUT THERE WAS SOME USEFUL DISCUSSION OF VARIOUS PROPOSALS WHICH CAN BE TAKEN UP AT THE NEXT SESSION.

5. Q. IS THERE ANY POSSIBILITY OF SPLITTING OFF THE DEEP SEABED ISSUED FOR THE REST OF THE NEGOTIATIONS AND COMPLETING A TREATY ON THE NAVIGATION AND MARINE POLLUTION ACT?

A. THAT DECISION HAS TO BE TAKEN BY THE GENERAL ASSEMBLY. WE HAVE SEEN NO INDICATION OF ANY SUPPORT FOR SUCH AN APPROACH.

6. Q. DID THE ELECTION HAVE ANY EFFECT ON THE NEGOTIATIONS?

A. SOME DELEGATIONS MAY HAVE THIS VIEW, BUT WE BELIEVE THE SECRETARY MADE IT CLEAR THAT FUNDAMENTAL U.S. OBJECTIVES ARE CONSTANT AND OUR POSITIONS ENJOY BIPARTISAN SUPPORT.

7. Q. I UNDERSTAND THAT RECENTLY A GROUP OF SENATORS SENT A LETTER TO THE PRESIDENT STATING THAT IF THE FINAL TREATY TEXT ON SEABED MINING IS SIMILAR TO THE PRESENT NEGOTIATING TEXT, THEN RATIFICATION WOULD BE DIFFICULT.

A. THERE APPEARS TO BE SOME MISUNDERSTANDING OF THE NATURE OF THE SO-CALLED REVISED SINGLE NEGOTIATING TEXT, ON SEABED MINING AND OF THE ADMINISTRATION'S UNCLASSIFIED

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POSITION ON THAT TEXT. THE RSNT IS NOT ACCEPTABLE IN SOME IMPORTANT RESPECTS. WE WOULD EXPECT THAT ANY AGREEMENT WE SIGN WOULD PROTECT THE BROAD RANGE OF OCEAN INTERESTS AND IN THAT CASE WE WOULD NOT ANTICIPATE DIFFICULTIES IN RATIFICATION.

II. COMMITTEE I (SEABED MINING)

1. Q. IS IT TRUE THAT THE DEVELOPING COUNTRIES REJECTED ALL OF THE COMPROMISES ON SEABED MINING REACHED AT THE LAST SESSION OF THE LOS CONFERENCE?

A. NO. THE DEBATE AT THIS SESSION FOCUSSED ENTIRELY ON THE SINGLE ISSUE OF ACCESS TO DEEP SEABED RESOURCES. MANY DEVELOPING COUNTRIES OBVIOUSLY HAD SERIOUS DIFFICULTIES WITH THE

SYSTEM

OF ACCESS AS REFLECTED IN THE NEGOTIATING TEXT PRODUCED IN MAY.
IT IS CLEAR THAT THE DEVELOPING COUNTRIES WILL HAVE PROBLEMS
ON OTHER ISSUES AS WELL. INDEED, WE ALSO HAVE PROBLEMS
WITH THIS TEXT. HOWEVER, THERE IS NO REASON TO
BELIEVE THAT THE EFFORTS AT COMPROMISE HAVE BEEN
REPUDIATED, GIVEN RECENT INDICATIONS OF WILLINGNESS BY
MANY DELEGATIONS TO START SERIOUS NEGOTIATIONS.

2. Q. IN LIGHT OF THE HARD LINE TAKEN BY THE DEVELOPING
COUNTRIES AT THIS SESSION, DO YOU BELIEVE THERE IS ANY
PROSPECT FOR SUCCESSFUL SOLUTION TO THE DEEP SEABED
ISSUES?

A. THE DEEP SEABED NEGOTIATIONS HAVE ALWAYS BEEN THE
MOST DIFFICULT AND INTRACTABLE. GIVEN SUFFICIENT
POLITICAL WILL ON THE PART OF ALL PARTIES, WE ARE
CONFIDENT THAT A SOLUTION CAN BE FOUND.

3. Q. WHAT ARE THE PROSPECTS FOR THE US CONGRESS PASSING
LEGISLATION ON THE DEEP SEABED MINING? WHAT WOULD
BE THE POSITION OF THE ADMINISTRATION ON SUCH
LEGISLATION?

A. IT IS NOT POSSIBLE TO PREDICT WHAT ACTION CONGRESS
WILL TAKE ON THIS. THE ADMINISTRATION WILL REVIEW
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THE QUESTION OF DEEP SEABED MINING LEGISLATION IN
LIGHT OF THE RESULTS OF THIS SESSION OF THE
CONFERENCE AND IT WILL CONTINUE TO CONSULT WITH
CONGRESS REGARDING THIS REVIEW.

4. Q. SECRETARY OF INTERIOR KLEPPE IN CONGRESSIONAL
TESTIMONY SAID THAT HE PERSONALLY SUGGESTED
UNILATERAL SEABED LEGISLATION AND THAT INTERIOR
WOULD BE WILLING TO WORK WITH CONGRESS TO DRAFT
SUCH LEGISLATION. WHAT IS THE ADMINISTRATION'S
VIEW OF THIS STATEMENT?

NOTE BY OC/T: NOT PASSED SECRETARY'S PARTY.

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A. SECRETARY KLEPPE'S STATEMENT WAS ENTIRELY A PERSONAL VIEW ON HIS PART AND IT DOES NOT REPRESENT A CLEARED ADMINISTRATION POLICY. WE STILL ARE REVIEWING THE RESULTS OF THE SECOND NEW YORK SESSION THIS YEAR AND WILL REVIEW OUR POLICY ON LEGISLATION AS PART OF THIS PROCESS. ONCE SUCH REVIEW IS COMPLETED, THE PRESIDENT WILL DECIDE ON OUR FUTURE LAW OF THE SEA STRATEGY INCLUDING THAT REGARDING DEEP SEABED MINING.

5. Q. DID THE SEPTEMBER 1 VISIT OF SECRETARY KISSINGER, AND HIS PRESENTATION OF NEW PROPOSALS, HAVE ANY SIGNIFICANT IMPACT ON THE CONFERENCE?

A. YES. IT BROUGHT INTO BETTER PERSPECTIVE THE RELATIONSHIP BETWEEN OUR NEED FOR GUARANTEED ACCESS WITH THE LDC'S REQUIREMENTS FOR A FUNCTIONAL ENTERPRISE AND PERIODIC TREATY REVIEW. OTHER STATES WILL OBVIOUSLY NEED TIME TO EVALUATE THESE PROPOSALS--
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PARTICULARLY BECAUSE THE SECRETARY MADE THEM CONDITIONAL UPON COUNTRIES AGREEING TO AN ACCESS SYSTEM WHICH WOULD ALSO ALLOW US FIRMS TO OPERATE IN THE SEABEDS. BUT THE EFFECT

WAS TO CAUSE THOSE PRESENT AT THE CONFERENCE TO RE-EXAMINE THE BASIC ISSUES INVOLVED AND FOR MANY COUNTRIES TO EXPRESS INTEREST IN OUR PROPOSALS. THERE WAS NOT TIME, HOWEVER, TO NEGOTIATE THE DETAILS OF THIS APPROACH.

6. Q. DOES THIS MEAN THAT WE ARE CLOSER TO AN AGREEMENT AS A RESULT OF THE SECRETARY'S INITIATIVES?

A. IT IS DIFFICULT TO SAY. WE ARE, HOWEVER, IN A SITUATION WHICH IS MUCH IMPROVED FROM THE ATMOSPHERE EARLIER IN THE SESSION. THE SECRETARY MADE A MAJOR CONTRIBUTION IN THIS IMPROVEMENT. WE BELIEVE THE SECRETARY'S PACKAGE WILL RECEIVE BROAD SUPPORT.

7. Q. WILL THESE PROPOSALS BE ON THE TABLE AT THE NEXT SESSION?

A. THAT DEPENDS UPON THE RESPONSE OF OTHERS. WE NEED, AS THE SECRETARY INDICATED, A CLEAR INDICATION ON THEIR PART THAT THEY ARE COMMITTED TO THE ESTABLISHMENT OF A PARALLEL SYSTEM, WITH GUARANTEED ACCESS FOR US AND OTHER FIRMS AS PART OF THIS SYSTEM. IF THIS INDICATION IS FORTHCOMING, THE US WILL ELABORATE ITS OWN PROPOSALS ON FINANCING THE ENTERPRISE AND THE 25-YEAR REVIEW PROVISION.

8. Q. WAS THIS INITIATIVE FULLY AGREED WITH ALL PARTS OF THE GOVERNMENT AND WAS THERE PRIOR CONSULTATION WITH THE CONGRESS? ISN'T THE SECRETARY COMMITTING THE US TO A SUBSTANTIAL AMOUNT OF FINANCIAL ASSISTANCE?

A. THE INITIATIVE WAS RECEIVED AND APPROVED WITHIN THE EXECUTIVE BRANCH AND HAS SUPPORT IN THE CONGRESS. THE AMOUNTS INVOLVED ARE RELATIVELY MODEST, SINCE WE WOULD SHARE THE COSTS WITH OTHER COUNTRIES.

9. Q. THE SECRETARY ALSO MENTIONED IN HIS PROPOSALS THE IDEA OF TRANSFER OF TECHNOLOGY TO THE ENTERPRISE.
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WHY SHOULD US FIRMS AGREE TO SUCH A TRANSFER TO THEIR COMPETITOR, THE ENTERPRISE?

A. SOME OF THE TECHNOLOGY INVOLVED IS GOVERNMENT TECHNOLOGY. WE ARE NOT PROPOSING TO TAKE TECHNOLOGY FROM PRIVATE COMPANIES AND TRANSFER IT TO THE AUTHORITY OR THE ENTERPRISE. THE MAJOR THRUST OF THE SECRETARY'S PROPOSAL INVOLVES THE FINANCIAL ASPECTS OF MAKING THE ENTERPRISE FUNCTIONAL AND IS DESIGNED TO INSURE THAT THE ENTERPRISE HAS

SUFFICIENT FINANCIAL RESOURCES TO OBTAIN NECESSARY TECHNOLOGY ON A COMMERCIAL BASIS.

III. COMMITTEE II (TERRITORIAL SEA, STRAITS, ECONOMIC ZONE)

1. Q. DURING THE SECRETARY'S VISIT TO NEW YORK, HE INDICATED THAT AMONG MAJOR OUTSTANDING ISSUES IS THE QUESTION OF THE STATUS OF THE ECONOMIC ZONE. WHY DOES THE U.S. ATTACH SO MUCH IMPORTANCE TO THIS QUESTION, AND WAS ANY PROGRESS MADE DURING THIS SESSION IN THAT REGARDS?

A. IT IS CRITICAL TO US INTERESTS THAT THE PROPOSED 200 MILE ECONOMIC ZONE, WHICH IS NOW PART OF THE HIGH SEAS, MUST CONTINUE TO BE RECOGNIZED AS HIGH SEAS EXCEPT FOR CERTAIN COASTAL STATE RESOURCE AND OTHER RIGHTS WHICH SHOULD BE CLEARLY DEFINED. OUR POSITION IS SHARED BY SEVERAL ALLIES AND THE SOVIET UNION. WE BELIEVE NEGOTIATIONS NOW POINT IN THE DIRECTION OF A MUTUALLY ACCEPTABLE SOLUTION.

2. Q. WHY HASN'T THE U.S. TAKEN A STRONG POSITION ON THE LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES?

A. THE SOLUTION HERE IS A BALANCE BETWEEN COASTAL STATES AND OTHERS AND WE ARE ENCOURAGING BOTH SIDES TO ACHIEVE SUCH A BALANCE.

IV. COMMITTEE III (POLLUTION, MARINE SCIENTIFIC RESEARCH)

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1. Q. MANY AMERICAN SCIENTISTS HAVE STATED THAT THE TEXT ON SCIENTIFIC RESEARCH IS UNACCEPTABLE AND HARMFUL TO SCIENCE. WAS THERE ANY PROGRESS ON THIS ISSUE?

A. WE HAVE MADE IT CLEAR THAT THE EXISTING TEXT IS NOT AN ACCEPTABLE COMPROMISE. THIS SESSION HAS CLEARLY PRODUCED AN UNDERSTANDING THAT NEITHER A SIMPLE NOTIFICATION REGIME NOR AN UNQUALIFIED CONSENT REGIME CAN BE ACCEPTED. FURTHER WORK CLEARLY NEEDS TO BE DONE TO FIND A COMPROMISE.

2. Q. CHAIRMAN YANKOV HAS INCLUDED A PROPOSAL IN HIS REPORT WHICH HE FLOATED INFORMALLY DURING THE SESSION. IS THAT ACCEPTABLE?

A. NO. THE CHAIRMAN'S TEXT PROPOSAL WAS REJECTED INFORMALLY DURING THE SESSION.

3. Q. IS THE RECENT AUSTRALIAN PROPOSAL ACCEPTABLE?

A. THAT WAS FLOATED VERY LATE IN THE SESSION, BUT A NUMBER OF DELEGATES NOTED POSITIVE ELEMENTS IN IT. WE WILL CERTAINLY STUDY IT CLOSELY.

4. Q. WHAT ARE THE DEVELOPING COUNTRIES REALLY AFTER ON SCIENTIFIC RESEARCH?

A. MANY OF THEM HAVE ARGUED THAT THEY MUST BE ABLE TO PROTECT THEIR RESOURCE RIGHTS AND WE HAVE INDICATED OUR WILLINGNESS TO ACCEPT A CONSENT REQUIREMENT IN THOSE CASES. BUT THEIR DEMANDS GO BEYOND THAT TO COVER ALL MARINE SCIENTIFIC RESEARCH. IN ADDITION, A NUMBER OF COUNTRIES HAVE LINKED THIS ISSUE TO THE QUESTION OF THE STATUS OF THE ECONOMIC ZONE WHICH IS ALSO UNRESOLVED.

5. Q. WHAT ABOUT THE PROVISIONS ON PROTECTING THE MARINE ENVIRONMENT? ARE THEY ADEQUATE?

A. WE HAVE TWO OBJECTIVES ON THIS PART -- PROVIDING ADEQUATE AUTHORITY TO PROTECT THE ENVIRONMENT BUT UNCLASSIFIED

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ALSO FACILITATING NAVIGATION AND TRADE. ON MOST POINTS THE REVISED TEXT STRIKES AN ADEQUATE BALANCE BETWEEN THESE.

6. Q. ARE THERE ANY MAJOR OUTSTANDING PROBLEMS IN THE POLLUTION AREA?

A. CHAIRMAN YANKOV HAS NOTED THAT THE QUESTION OF THE EXTENT OF COASTAL STATE POWER TO REGULATE VESSELS IN INNOCENT PASSAGE IN THE TERRITORIAL SEA IS NOT RESOLVED. THAT WILL REQUIRE FURTHER WORK.

V. DISPUTE SETTLEMENT

A. WHAT IS YOUR ATTITUDE TOWARD THE DISPUTE SETTLEMENT PART OF THE NEGOTIATIONS?

A. I CONSIDER THE CREATION OF A COMPREHENSIVE SYSTEM FOR THE OBLIGATORY SETTLEMENT OF DISPUTES TO BE A CRUCIAL ASPECT OF A LAW OF THE SEA PACKAGE DESIGNED TO ESTABLISH WORLD ORDER WITH RESPECT TO THE OCEANS. WE MADE SUBSTANTIAL PROGRESS ON THIS ISSUE AT THE SESSION JUST COMPLETED.
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